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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,826	09/05/2003	Steven Kaufmann		7148

37476 7590 04/27/2007

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EXAMINER	
THOMASSON, MEAGAN J	
ART UNIT	**PAPER NUMBER**
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

ED

Office Action Summary	Application No.	Applicant(s)	
	10/655,826	KAUFMANN, STEVEN	
	Examiner	Art Unit	
	Meagan Thomasson	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1/8/07*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) *1,14 and 19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-13 and 15-18* is/are rejected.

7)☒ Claim(s) *4* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The examiner acknowledges the amendments made to claims 2-4,6,9,12,13, and 18. Claims 1,14 and 19 have been canceled.

Objections

Claim 4 is objected to because of the following informalities: The claim is labeled as original, but it has been amended to include the limitation of "by another learner, tutor or teacher". The claim should be labeled as currently amended. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2,9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "***the learner's personal database*** can be sorted and customized..." (emphasis added) in line 15. There is insufficient antecedent basis for this limitation in the claim, as the previous limitation discloses only a "***learner profile contained in a personal database***" (emphasis added). The examiner has interpreted

this claim to mean that there exists a personal database containing a learner profile, wherein the database be sorted and customized. The examiner recommends amending line 15 of claim 2 to read "the personal database can be sorted and customized...".

Claim 9 recites the limitation "wherein the learner's personal database is compared ***to...to*** words in content that ***the learner is or intends to learn*** from as selected in the learning library database" (emphasis added) in lines 2-3. This is grammatically awkward, and the examiner has interpreted this claim to mean "wherein the learner's personal database is compared to...words that the learner is learning, or intends to learn, as selected from the content in the learning library database". In other words, a user selects words from the learning library database and the selected words are compared to those in the personal database.

Claim 11 recites the limitation "The method of claim 3, wherein the submitted ***writing samples*** and ***audio samples*** are stored in the learner's database". However, claim 3 does not disclose submitting writing and/or audio samples. Likewise, claim 2, from which claims 3 and 11 depend, do not disclose submitting writing and/or audio samples. Thus, there is lack of antecedent basis for this claim. Claim 4 recites "wherein the language instruction sessions include a writing instruction section for ***submission of learner's text*** for review", but does not disclose 1) submitted "writing samples" or 2) "audio samples". Thus, the examiner recommends amending claim 4 to include the limitation of submitting audio samples along with learner's text, and changing the language of claim 11 to read "The method of ***claim 4***, wherein the submitted ***learner's text*** and audio samples are stored in the learner's database".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-4,11-13,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfield et al. (US 6,358,053 B1) in view of Bishop (US 5,810,599).

Regarding claim 2, Rosenfield discloses a computer-implemented method for providing language instruction comprising the steps of invoking a web browser (col. 3, lines 42-44; col. 6, lines 53-63), logging a learner computer into a host system to commence a learning session (abstract), creating a learner profile in a personal database (claim 13), accessing a language library database (course materials), displaying to learner a control panel providing the learner with the option of choosing language instruction sessions (abstract: the lesson plan selected; col. 4, lines 62-63,

Fig. 2), and the learner engaging in a selected instruction session (Fig. 2: instruction commences 207). Rosenfield discloses the use of written text in a variety of languages and skill levels (col. 3, lines 9-11 "course materials may be stored at the host 150; for example text, audio,video..."; and further that the student chooses a language they want to learn in Fig. 2; Student Chooses a Language, 203).

Rosenfield does not specifically disclose that the language library contains a dictionary or recordings of live conversations, nor does Rosenfield specifically disclose the ability to sort the personal database in a variety of ways. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to include database sorting and customization features in the present invention as this is a notoriously well known practice for all database applications (e.g. Microsoft Excel). Further, Rosenfield discloses sorting students according to their skill level and desired language, and assigning them to a teacher in accordance with these criteria (col. 3, lines 59-65). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a sorting and/or customization feature for the personal database in order to facilitate learning.

In an invention analogous to that of Rosenfield, Bishop discloses a system and method for learning a foreign language having a plurality of interactive features. Bishop discloses that these features may include a dictionary (col. 9, lines 7-10) as well as recordings of live conversations (col. 10, lines 21-24). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the dictionary of Bishop with the language learning system of Rosenfield as Rosenfield teaches of a

study aid that presents new vocabulary to a student (col. 4, lines 20-21). Additionally, it would have been obvious to combine the recordings of conversations of Bishop with the language learning system of Rosenfield as Rosenfield teaches the use of audio clips to be used in instructional session (col. 6, lines 33-36). Further, as previously mentioned, the inventions disclosed by Rosenfield and Bishop are analogous in that they are both language learning systems and methods.

Regarding claim 3, Bishop discloses a words and phrases instructional session that provides text and audio output in column 8, line 56 – col. 9, line 18 (Notes feature), wherein a user may select a word and/or phrase and receive audio and text information about the selected word and/or phrase. Bishop discloses a reading content instruction session providing learner selected content from said language library and a workdesk instructional section providing means for audio and text output of selected content from said language library (col. 8, lines 40-55, Transcription and Translation features). Finally, Bishop discloses a pronunciation instruction session providing means for audio input by learner for comparison to audio output of select words or phrases from the language library (col. 10, lines 42-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Rosenfield and Bishop due to their analogous invention types, namely language learning systems and methods.

Regarding claim 4, Bishop discloses that a user may submit text input in response to a question (col. 7, lines 19-37) or as an appropriate response to a spoken line of dialog in a role-playing type of situation (col. 9, line 60- col. 10, line 18). The

user's textual input is then evaluated by the computer system for correctness (col. 7, lines 36-47), wherein in this instance the computer-implemented language learning system acts as the user's tutor. Thus, a tutor in fact does review the submission of text.

Regarding claim 11, Bishop discloses submitting writing and audio samples (col. 10, lines 19-41), wherein a user may be asked to transcribe or translate a line of dialog by textual input or audible input in order to test user oral and written comprehension and understanding of a foreign language. Bishop does not specifically disclose that these inputs are stored in the learner's database. However, Bishop does disclose the use of a study file, wherein a user may store selected words or phrases for additional review (col. 12, lines 36-49). Thus, the invention disclosed by Bishop is capable of storing the written and audio user inputs, and therefore storing the submitted writing and audio samples does not render the claimed invention new, novel, or unobvious to one of ordinary skill in the art.

Regarding claim 12, Bishop discloses the storage of words and phrases in the study file is accessible by a learner for review (col. 12, lines 39-46).

Regarding claim 13, the language coach of Bishop, i.e. the computer-implemented language learning system, reviews the learner's submitted writing and audio samples and provides feedback and corrections ("computer checking of input answers for correctness", col. 7, lines 44-45).

Regarding claim 16, a web browser enables a learner to access the host computer through the use of a control panel providing the learner with the option of choosing the language of instruction for the session (Rosenfield, Fig. 2).

Regarding claim 17, Bishop discloses that the instruction sessions provide text, audio, and graphical output (col. 3, lines 40-49; col. 4, lines 64-67), as well as text, audio, and graphical input (col. 3, lines 50-61; col. 7, lines 34-36).

Claim 5-10,15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfield et al. (US 6,358,053), Bishop (US 5,810,599) and further in view of Rtischev et al. (US 6,302,695).

Rosenfield/Bishop as applied above discloses the use of a writing instruction section for submission of learner's text for review by a tutor, wherein the computer-implemented system acts as the tutor. The review process enables a written submission to be checked for correctness (Bishop col. 7, lines 19-47). Rosenfield/Bishop does not specifically disclose that the writing instruction section uses a software program to enable a coach to correct a written submission and generate a report and statistical analysis of the corrections made. However, Rtischev discloses that a user may compose a text or spoken message for a teacher (col. 17, lines 59-61), and discloses a method for the teacher to correct and grade the spoken message. However, since the grading the submission may be either textual or spoken, it would have been obvious to correct the written submission in a manner similar to that of the spoken submission.

Specifically, Rtischev discloses correcting said submission and generating a report, i.e. marking the places where a user has made a mistake. Subsequent to marking the number of mistakes made by a user, a teacher generates a statistical analysis by assigning a grade (col. 18, lines 1-39). It is well known that a grade is

assigned according to a percentage of questions answered correctly out of the number of possible answers, and thus a grade does in fact constitute a statistical analysis of the corrections made. Additionally, Rtischev discloses categorizing the types of errors made by the student (col. 18, lines 23-26), a second form of statistical analysis wherein errors are grouped so that a student may view any areas of weakness. For example, if a student made a total of five errors, 4 of which are in the pronunciation category and only 1 of which is in the grammar category, the student would recognize pronunciation as his or her biggest weakness and may focus their efforts on correcting this area. Thus, demonstrating to a student that out of 5 total errors, 4 were pronunciation errors, is in fact a form of statistical analysis. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of a language learning system as disclosed by Rosenfield/Bishop with the language learning system as disclosed by Rtischev as they are analogous inventions in the same field of endeavor.

Regarding claim 6, Rosenfield/Bishop/Rtischev disclose that the learner chooses the content of interest from a list of subject topics for listening and reading in a desired foreign language (Notes feature of Bishop, col. 8, line 56 – col. 9, line 18).

Regarding claims 7,8,10 and 15, Rosenfield/Bishop/Rtischev disclose that the learner enters selected content into the personal database creating word card and phrase card files that can be sorted (Bishop, col. 12, lines 36-49). Further, Bishop discloses that the selected words or phrases, i.e. sentences, contained in the personal database are connected to words and lexical phrases, i.e. definitions and use context (Bishop, col. 12, lines 36-49).

Regarding claim 9, Rosenfield/Bishop/Rtischev disclose that the learner's personal database is compared to; learner's goals as set in the user profile (Rosenfield, the desired lesson the student wants to learn); to other learner's personal databases (Rosenfield, grouping of students into similar skill level groups); and to words that the learner is learning, or intends to learn, as selected from the content in the learning library database (Rosenfield, completion of a study goal [col. 1, lines 60-67]).

Regarding claim 18, Rosenfield/Bishop/Rtischev disclose that the instruction sessions provide automated software providing correction means for learner's text input for proper syntax, and generate a report and analysis. Specifically, Rtischev discloses correcting a student's submission for errors made in word choice, grammar, pronunciation, vocabulary, and the like (col. 18, lines 23-29). As grammar consists of a description of all the elements in a language, grammar encompasses syntax. Thus, Rtischev indeed discloses providing correction means for proper syntax.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714

Meagan Thomasson
April 25, 2007